

# SENATE BILL No. 894

November 8, 2007, Introduced by Senators VAN WOERKOM, RICHARDVILLE, BIRKHOZ, GILBERT, KAHN, BROWN, GLEASON, PAPPAGEORGE, JANSEN and HARDIMAN and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 2007 PA 36, entitled  
 "Michigan business tax act,"  
 by amending section 403 (MCL 208.1403).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 403. (1) Notwithstanding any other provision in this act,  
 2 the credits provided in this section shall be taken before any  
 3 other credit under this act. The total combined credit allowed  
 4 under this section shall not exceed 65% of the total tax liability  
 5 imposed under this act.

6           (2) Subject to the limitation in subsection (1) **AND, EXCEPT AS**  
 7 **OTHERWISE PROVIDED UNDER THIS SUBSECTION**, a taxpayer may claim a  
 8 credit against the tax imposed by this act equal to 0.370% of the  
 9 taxpayer's compensation in this state. **SUBJECT TO THE LIMITATION IN**  
 10 **SUBSECTION (1), IF ANY OF THE TAXPAYER'S COMPENSATION IN THIS STATE**

1 IS ATTRIBUTABLE TO EMPLOYEES WHO ARE PRIMARILY ENGAGED IN THE  
2 BUSINESS OF RECYCLING OR IN THE BUSINESS OF LANDFILL METHANE GAS  
3 RECOVERY OR UTILIZATION, THE TAXPAYER MAY CLAIM A CREDIT AGAINST  
4 THE TAX IMPOSED BY THIS ACT EQUAL TO THE SUM OF 0.4% OF THAT  
5 PORTION OF THE TAXPAYER'S COMPENSATION ATTRIBUTABLE TO EMPLOYEES  
6 WHO ARE PRIMARILY ENGAGED IN THE BUSINESS OF RECYCLING OR IN THE  
7 BUSINESS OF LANDFILL METHANE GAS RECOVERY OR UTILIZATION AND 0.370%  
8 OF THE REMAINDER OF THE TAXPAYER'S COMPENSATION IN THIS STATE. For  
9 purposes of this subsection, a taxpayer includes a person described  
10 in section 239(2) and subject to the tax imposed under chapter 2A.  
11 A professional employer organization shall not include payments by  
12 the professional employer organization to the officers and  
13 employees of a client of the professional employer organization  
14 whose employment operations are managed by the professional  
15 employer organization. A client may include payments by the  
16 professional employer organization to the officers and employees of  
17 the client whose employment operations are managed by the  
18 professional employer organization.

19 (3) Subject to the limitation in subsection (1), a taxpayer  
20 may claim a credit against the tax imposed by this act equal to  
21 2.9% OR, IF THE ASSETS ARE USED PRIMARILY FOR RECYCLING OR FOR  
22 LANDFILL METHANE GAS RECOVERY OR UTILIZATION, 3.0%, multiplied by  
23 the result of subtracting the sum of the amounts calculated under  
24 subdivisions (d), (e), and (f) from the sum of the amounts  
25 calculated under subdivisions (a), (b), and (c):

26 (a) Calculate the cost, including fabrication and  
27 installation, paid or accrued in the taxable year of tangible

1 assets of a type that are, or under the internal revenue code will  
2 become, eligible for depreciation, amortization, or accelerated  
3 capital cost recovery for federal income tax purposes, provided  
4 that the assets are physically located in this state for use in a  
5 business activity in this state and are not mobile tangible assets.

6 (b) Calculate the cost, including fabrication and  
7 installation, paid or accrued in the taxable year of mobile  
8 tangible assets of a type that are, or under the internal revenue  
9 code will become, eligible for depreciation, amortization, or  
10 accelerated capital cost recovery for federal income tax purposes.  
11 This amount shall be multiplied by the apportionment factor for the  
12 tax year as prescribed in chapter 3.

13 (c) For tangible assets, other than mobile tangible assets,  
14 purchased or acquired for use outside of this state in a tax year  
15 beginning after December 31, 2007 and subsequently transferred into  
16 this state and purchased or acquired for use in a business  
17 activity, calculate the federal basis used for determining gain or  
18 loss as of the date the tangible assets were physically located in  
19 this state for use in a business activity plus the cost of  
20 fabrication and installation of the tangible assets in this state.

21 (d) If the cost of tangible assets described in subdivision  
22 (a) was paid or accrued in a tax year beginning after December 31,  
23 2007, or before December 31, 2007 to the extent the credit is used  
24 and at the rate at which the credit was used under former 1975 PA  
25 228 or this act, calculate the gross proceeds or benefit derived  
26 from the sale or other disposition of the tangible assets minus the  
27 gain, multiplied by the apportionment factor for the taxable year

1 as prescribed in chapter 3, and plus the loss, multiplied by the  
2 apportionment factor for the taxable year as prescribed in chapter  
3 3 from the sale or other disposition reflected in federal taxable  
4 income and minus the gain from the sale or other disposition added  
5 to the business income tax base in section 201.

6 (e) If the cost of tangible assets described in subdivision  
7 (b) was paid or accrued in a tax year beginning after December 31,  
8 2007, or before December 31, 2007 to the extent the credit is used  
9 and at the rate at which the credit was used under former 1975 PA  
10 228 or this act, calculate the gross proceeds or benefit derived  
11 from the sale or other disposition of the tangible assets minus the  
12 gain and plus the loss from the sale or other disposition reflected  
13 in federal taxable income and minus the gain from the sale or other  
14 disposition added to the business income tax base in section 201.  
15 This amount shall be multiplied by the apportionment factor for the  
16 tax year as prescribed in chapter 3.

17 (f) For assets purchased or acquired in a tax year beginning  
18 after December 31, 2007, or before December 31, 2007 to the extent  
19 the credit is used and at the rate at which the credit was used  
20 under former 1975 PA 228 or this act, that were eligible for a  
21 credit under subdivision (a) or (c) and that were transferred out  
22 of this state, calculate the federal basis used for determining  
23 gain or loss as of the date of the transfer.

24 **(4) SUBJECT TO THE LIMITATION IN SUBSECTION (1), A TAXPAYER**  
25 **MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT EQUAL TO**  
26 **4.0% OF THE TOTAL COST INCURRED BY THE TAXPAYER DURING THE TAX YEAR**  
27 **TO TRAIN EMPLOYEES WHO ARE PRIMARILY ENGAGED IN THE BUSINESS OF**

1 RECYCLING OR IN THE BUSINESS OF LANDFILL METHANE GAS RECOVERY OR  
2 UTILIZATION IN THIS STATE.

3 (5) ~~(4)~~—For a tax year in which the amount of the credit  
4 calculated under subsection (3) is negative, the absolute value of  
5 that amount is added to the taxpayer's tax liability for the tax  
6 year.

7 (6) ~~(5)~~—A taxpayer that claims a credit under this section is  
8 not prohibited from claiming a credit under section 405. However,  
9 the taxpayer shall not claim a credit under this section and  
10 section 405 based on the same costs and expenses.

11 (7) AS USED IN THIS SECTION, "RECYCLING" MEANS THE ACT OF  
12 TREATING OR PROCESSING AN ITEM SO THAT IT OR THE MATERIALS FROM  
13 WHICH IT IS MADE MAY BE USED AGAIN.

14 Enacting section 1. This amendatory act takes effect January  
15 1, 2008.